

# **The Window of Opportunity: Maximizing Value in a Retail Bankruptcy Restructuring**

**Upper Midwest  
TMA Education Program  
Minneapolis, MN  
June 7 , 2007  
8:00am-9:00am**

## Panel Participants

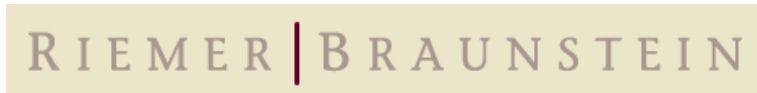
- James Cullen - Financial & Restructuring Advisor, Alliance Management, Inc., Minneapolis, MN
- Chris Tomas - Financial and Restructuring Advisor, Alliance Management, Inc., Minneapolis, MN
- Mr. Anton Caracciolo - Executive Vice President, Hilco Merchant Resources, Chicago, IL
- Mr. Ryan Murphy – Attorney, Fredrikson & Byron, Minneapolis, MN



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The **Hilco** Organization  
Asset Valuation, Disposition, Acquisition and Financing



# Case Reference

- **Overland Trading – Bankruptcy Case**
  - 55 Stores Revenue - \$40M Losses -\$3.6M 441 Employees
  - Credit Line and Debt of \$10M
  - 80 year old Kansas Shoe Retailer
- Chapter 11 Filed January 6, 2006 in District of Kansas
  - Sale to Big Dog Holdings Approved January 31, 2006
  - 363 Sale Process – Sale and GOB Process in Parallel
  - Bank paid in full/Return to unsecured creditors
  - Still operating 32 Stores
  - Approximately 400 Jobs preserved at time of sale
  - Key Players- La Salle, AMI, Kronish Lieb, Hilco, Big Dog Holdings, Riemer and Braunstien

# Case Reference

- **Bachrach Clothing Company - Bankruptcy Case**
  - 47 Stores \$80M Revenue / \$1M Monthly Burn Rate
  - 600 Employees and 250 Suppliers worldwide
  - Credit Line /Total Debt approximately \$20M
  - 100 year old Midwest Clothing Distributor with 600 employees
- **Chapter 11 Filed on June 6, 2006 in District of Illinois**
  - 363 Sale to Bachrach Acquisition Corporation Approved June 30, 2006
  - Bank Paid in full on Credit Line of 10M
  - Return to Equity Sponsor Sun Capital
  - Still operating 30 plus Stores
- **Key Players – La Salle Retail Finance, Sun Capital, Hilco, Kirkland and Ellis, Cooley Godward Kronish, Shaw Gussis, Katten Muchin Rosenman, Riemer and Braunstein, AMI**

# **Warning Signs and Defensive Measures: The Lenders Perspective**

- Financial Information – Financial Reporting Issues
- Management Issues
- Increased use of leverage to finance losses
- Appraisal of Inventory and use of field examiners
- Increased Borrowing Base Reporting/Advance Rates/Borrowing Base Block
- Need for a 13 week cash flow from a Turnaround Group

# The Turnaround Professional: The 60 Second 13 Week Cash Flow and Immediate Issues

- Timing & Communication
- Collateral base- adequate protection while the “ice cube is melting”
- Financing options prior to filing
  - Use of Cash Collateral versus DIP Financing
- Well founded, fact based plan: finding the business model that works prior to filing
- Preparation of the financial projections and development of the plan prior to filing
  - 4 wall EBITDA Analysis
    - Focus on the core profitable cash flowing stores
    - Developing the business model that works
- What can be accomplished inside a formal Chapter 11 versus outside a Chapter 11
  - Lease Issues
  - GOB Sale and Store Closings
  - Reorganization
  - 363 Sale

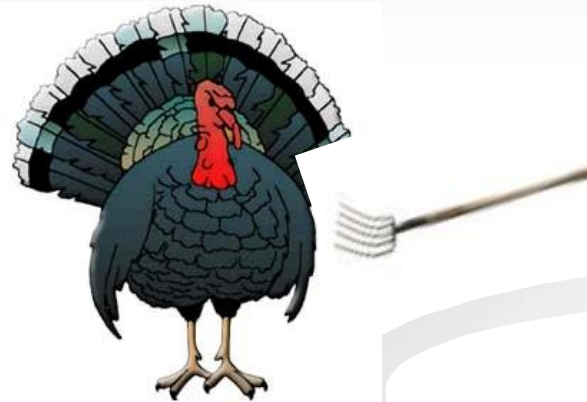
# The Evaluation of Strategic Options

- Turnaround/Restructuring (The Turnaround Perspective)
  - Is there a viable business?
  - Is there a source of financing?
  - Is there an asset base to support new financing?
  - Issues need to be carefully evaluated prior to embarking on a course of action
  
- Going Concern Sale versus Sale of Assets (The Bank)
  - Going concern premium versus liquidation value- uncovering the hidden value (e.g. lease designation rights)
  - Define the Timeline
  - Prepare the Offering Memorandum
  - Manage the 363 Sale
  
- Going out of Business Sale (GOB)/Liquidation in parallel to the Going Concern Sale

# Going Out of Business (GOB) Sale/Liquidation

- Preparation of the Bid Package
  - Information to be included
  - Working with the GOB Community
- GOB Equity Bid versus Fee-Based Bid (Fee, FI, FO)
- The Agency Agreement
  - Key points to be included
  - Sending out the blank agreement
  - Process and Timelines
- The Stalking Horse Agreement
  - Why have a Stalking Horse
  - Key points in the Stalking Horse Agreement
  - The Break up Fee
- The Auction Process

# Does This Store Have a Reason to Exist?



*Stick a fork in me...I'm Done!*

# Going Out of Business

## Moving the Merchandise

Going Out of Business Sale  
All Sales Final!

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## Discount Strategy

### No Reasonable Offer Refused!



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# 363 Sales: Bankruptcy Code and Judicial Requirements

- Authority to Sell: Sale Outside of the Ordinary Course
- Sale Free and Clear of an Interest in the Property of the Bankruptcy Estate
- Tension Between 363 Sale and Plan of Reorganization
- Bidder Protection Devices: Bid Procedures and Break-Up Fee
- Standard for Approving Sale

# **Working with a Creditor Committee: Both Unofficial and Official**

- **Communication with the unofficial committee of the creditors**
- **How to react- debtor's response**
- **Information dissemination**
- **Collaborative versus adversarial posture**
- **How debtors and creditor committee can work together effectively**

# **BAPCPA Act of 2005:**

## **Key Changes Amplified in Retail Setting**

- Non-residential leases- 210 days to assume/reject leases
- Plan exclusivity- limit on extensions
- Reclamation Claims- changes in timeframes, may be treated as administrative claim
- Utilities- adequate assurance of payment in form of a deposit
- Employee/Management retention- incentive issues
- Result: Pre-bankruptcy planning is crucial, especially cash flow planning

# Q & A